

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT L. BROOKS, TRUSTEE,
BROOKS LIVING TRUST DATED
FEBRUARY 22, 1999,
Appellant,

vs.
ROBERT BONNET AND ANGELA
HEREDIA BONNET, HUSBAND AND
WIFE, AS JOINT TENANTS,
Respondents.

No. 40535

FILED

OCT 15 2004

JANETTE M. FLEMING
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF REMAND

This is an appeal from a district court order that granted respondents summary judgment in an easement case. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

On August 12, 2004, we ordered appellant to show cause why this matter should not be remanded to the district court and this appeal dismissed because the district court, after appellant filed his notice of appeal, granted in part appellant's motion for reconsideration. Specifically, on reconsideration, the district court found a triable issue of fact as to whether appellant has an implied easement over respondents' real property. But the district court declined to reconsider its ruling that an easement could not be sustained on the theories of express grant or dedication.


Although the district court lacked jurisdiction to reconsider the summary judgment,¹ we construe the order granting reconsideration as indicating the district court's dissatisfaction with the summary judgment and intention to conduct a trial on appellant's implied easement

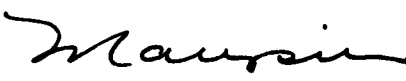
¹Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

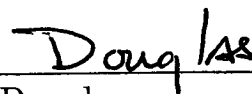
theory. Based on Huneycutt v. Huneycutt,² and in the interests of judicial economy, we conclude that this matter should be remanded to the district court for a resolution of appellant's reconsideration motion.³ A correction of the judgment will obviate the need for part of this appeal, and a subsequent trial will solidify the issues for this court's review should there be any appellate challenges to the final judgment.

Accordingly, we remand this matter to the district court for proceedings consistent with its attempt to grant reconsideration.

It is so ORDERED.⁴


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Connie J. Steinheimer, District Judge
Prezant & Mollath
Stephen H. Osborne
Washoe District Court Clerk

²94 Nev. 79, 575 P.2d 585 (1978).

³See Chapman Industries v. United Insurance, 110 Nev. 454, 874 P.2d 739 (1994) (bypassing the Huneycutt procedure because the district court had already expressed its dissatisfaction with the judgment and its desire to consider the merits of certain post-judgment motions).

⁴This order constitutes our final disposition of this appeal. Any further appeals in this matter following remand shall be docketed in this court as new and separate proceedings.